

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of California
Water Service Company (U 60 W), a Corporation,
for an Order Authorizing It to Increase Rates
Charged for Water Service at Each of Its
Operating Districts to Recover Increased
Operating Expenditures at Its General Office.

Application 01-09-062
(Filed September 10, 2001)

And Related Matters.

Application 01-09-063
Application 01-09-064
Application 01-09-065
Application 01-09-066
Application 01-09-067
Application 01-09-068
Application 01-09-069
Application 01-09-070
Application 01-09-071
Application 01-09-072
Application 01-09-073
Application 01-09-074

**ADMINISTRATIVE LAW JUDGE'S RULING SETTING DATE FOR FILING
SUPPLEMENTAL INFORMATION ON WATER QUALITY TESTING
MEMORANDUM ACCOUNT REQUEST**

On September 21, 2001, the California Water Service Company (Cal Water) filed 13 applications seeking Commission authorization to increase its rates in 15 of its operating divisions. The applications also sought an immediate ex parte Commission decision authorizing Cal Water to establish a memorandum account

for water quality testing expenses for chromium, methyl-tert-butyl ether (MTBE), and increased testing for unregulated contaminant monitoring (UCMR).

Cal Water premised its request on Commission Decision (D.) 94-06-033, the “Risk OII.” This decision created two avenues for water companies to incorporate in memorandum accounts water quality testing expenses that are beyond the control of the utility. The first avenue is for costs that the water utility anticipates incurring prior to next general rate case filing, but which cannot be estimated accurately for inclusion in the current rate case. The Commission may authorize the water utility to include these costs in a memorandum account in the current rate case decision.

The second avenue is for costs that were not foreseeable at the time of the last rate case but which have been incurred prior to the next general rate case. The utility may by application, or as part of a rate case application, seek Commission authorization to include these costs in a memorandum account.

In this proceeding, Cal Water chose the second avenue. This requires that Cal Water demonstrate as part of its application that the water quality testing costs: (1) are beyond its control, (2) were not foreseeable, and (3) will be incurred before Cal Water’s next general rate case.

The record in this proceeding currently shows that Cal Water has met requirements 1 and 3. The additional monitoring expenses were imposed by United States Environmental Protection Agency (EPA) and California Department of Health Services (DHS) regulations. Such regulations are beyond the control of Cal Water.

The regulations also have effective dates well in advance of Cal Water’s filing date for this rate case, and Cal Water has supplied documentation supporting its assertion that it has indeed incurred these costs.

In contrast to its showings on requirements 1 and 3, Cal Water's information filed to date tends to undermine its assertion that the costs were not foreseeable. Cal Water provided copies of the DHS directive imposing the new requirements. That directive cited to a Federal Register Notice dated September 17, 1999.¹ The Federal Register Notice contained the new regulations being promulgated by the EPA and recounted the history of the EPA's consideration of those regulations. The Notice states that the 1996 amendments to the Safe Drinking Water Act "substantially revised the unregulated contaminant monitoring" and that:

EPA has been developing the final revisions to the Unregulated Contaminant Monitoring Regulation (UCMR) for public water systems since 1997. In December 1997, EPA's UCMR development workgroup held a stakeholders meeting to obtain input from the public on major issues and options affecting the program and emanating from the Safe Drinking Water Act, as amended in 1996. EPA held a second stakeholders meeting in May 1998, on options under serious consideration for the UCMR. (64 Fed. Reg. at 50559.)

The proposed rule was published on April 30, 1999, and the final rule on September 17, 1999.

Cal Water states that it filed its last general office rate case on September 9, 1998, and that "there is no question that these costs were not foreseen in the last rate case in 1998."

In D.94-06-033, however, the Commission required that the costs be "not foreseeable." That is, that the water utility could not have "reasonably

¹ 64 FR 50556.

anticipated”² the imposition of these costs. The information submitted thus far by Cal Water shows that Congress adopted the legislation upon which these requirements were based in 1996 and that the EPA was engaged in a public process to adopt these rules in 1997, well in advance of Cal Water’s last rate case. This information does not support a finding that Cal Water could not have reasonably anticipated the imposition of these costs.

To provide Cal Water an opportunity to supplement the record on this issue, Cal Water may file and serve additional documents and discussion no later than April 29, 2002.

IT IS SO RULED

Dated April 16, 2002.

/s/ MARIBETH A. BUSHEY

Maribeth A. Bushey
Administrative Law Judge

² Merriam Webster’s Collegiate Dictionary, (10th ed., 1993), page 457.

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Setting Date for Filing Supplemental Information on Water Quality Testing Memorandum Account Request on all parties of record in this proceeding or their attorneys of record.

Dated April 16, 2002, at San Francisco, California.

/s/ERLINDA PULMANO

Erlinda Pulmano

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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